

SBCivil Writ Petition No.5837/2004

Chimanlal Mewara
V.
State of Rajasthan & Anr.

Date of Order :: 26th May, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Kuldeep Mathur, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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The petitioner was having a licence to act as "Document Writer" under the Rajasthan Registration (Licensing of Document Writers) Rules, 1956 (hereinafter referred to as "the Rules of 1956"). The District Registrar (Collector), Pali while exercising powers under Rule 11 of the Rules of 1956 by order dated 2.12.2004 cancelled the licence of the petitioner. Being aggrieved by the same this petition for writ is preferred.

while assailing validity and propriety of the order dated 2.12.2004 it is contended by learned counsel for the petitioner that the District Registrar cancelled the licence of the petitioner without affording a reasonable opportunity of showing cause against the proposed cancellation as required under Rule 11(2) of the Rules of 1956.

A reply to the writ petition is filed on behalf of the respondents stating therein that the petitioner is guilty of preparing a false document and misappropriation of the amount, therefore, a notice as required under Rule 11(2) of the Rules of 1956 was served upon the petitioner and after considering the explanation given by the petitioner on 8.6.2004 at the time of personal hearing, the order impugned was passed.

Heard counsel for the parties.

Rule 11 of the Rules of 1956 empowers the District Registrar to cancel a licence issued under Rule 3 of the Rules of 1956 in various eventualities, however, no such action can be taken by the District Registrar without affording a reasonable opportunity to a Document Writer with regard to proposed cancellation. Rule 11(2) of the Rules of 1956 mentions that a reasonable opportunity to show cause against the proposed cancellation shall be given. The term "reasonable opportunity" means that an inquiry must be conducted in conformity with the principles of natural justices. As such there should be specific charge with a statement of allegation on which the charge is based with all necessary details required for effective defence. The charge must be intimated to the delinquent. If the delinquent does not accept the

allegation then an inquiry must be conducted in presence of the delinquent.

Accordingly, before taking an action under Rule 11 of the Rules of 1956 for cancellation of licence the District Registrar is required to frame definite charges against the delinquent Document writer, the charge is require to be intimated and then in the event of non-acceptance of charges a fair inquiry is required to be conducted to give a specific finding with regard to charges alleged.

In the instant matter the District Registrar conducted an inquiry in absence of the petitioner as it is apparent from perusal of the order impugned as well as from reading of the pleadings. The admitted position between the parties is that the copy of the report of inquiry which was admittedly conducted behind the back of the petitioner was also not supplied to him. The violation of principles of reasonable opportunity, therefore, is apparent. The order impugned, in view of it, is perverse and deserves to be quashed.

Accordingly, this petition for writ is allowed. The order impugned dated 2.12.2004 passed by the District Registrar, Pali is hereby quashed. It shall be open for the District Registrar to hold an inquiry afresh against the petitioner by providing him

a reasonable opportunity to defend himself. The District Registrar shall conduct such inquiry within a period of one year from the date a certified copy of this order is served upon him by the petitioner. The inquiry should be instituted and initiated within a period of three months from the date referred above.

No order to cost.

(GOVIND MATHUR),J.

kkm/ps .